

Crl.M.P.No.10928 of 2016

in

Crl.A.Sr.No.43245 of 2016

M.Venugopal, J.,

Heard both sides.

2. No counter is filed on behalf of the Respondent.
3. According to the Petitioner/Appellant/De facto Complainant, there is a delay of 378 days, in preferring the instant Criminal Appeal, in Sr.No.43245 of 2016, as against the Judgement, dated 10.07.2015, in C.C.No.3719 of 2012, passed by the Learned IX Metropolitan Magistrate (Fast Track Court No.III), Saidapet, Chennai.
4. The reasons advanced on behalf of the Petitioner/Appellant for the delay of 378 days in preferring the present Criminal Appeal before this Court is that, his Learned Counsel on several occasions took steps to issue Warrant, but, the same was not executed for one reason or another. In the meanwhile, his Learned Counsel, due to his personal inconvenience, was unable to appear before the Trial Court, and, as a result of his non-appearance, the Complaint came to be dismissed for default on 10.07.2015.

5. The Petitioner/Appellant subsequently filed an Application before the Trial Court to receive the Judgment Copy on 23.03.2016, and the same was received by him on 05.04.2016. In the meanwhile, the hand bundles also got misplaced. Later, he filed another Application to receive the case papers. In this process, there has occasioned a delay of 378 days in preferring the present Criminal Appeal before this Court, which is neither willful, nor wanton, but due to the aforesaid reason/circumstances.

6. Per contra, it is the submission of the Learned Counsel for the Respondent that the reasons assigned by the Petitioner/Appellant in Crl.M.P.No.10928 of 2016, at Para No.4 of the affidavit, are contrary to facts and they are not *bona fide*. Therefore, Crl.M.P.No.10928 of 2016 (viz., the Condone Delay Petition) has to be dismissed by this Court, in the interest of Justice.

7. In this connection, this Court very significantly points out that, while dealing with a 'Petition for Condonation of Delay', has to adopt a lenient and liberal view, especially, a pragmatic, practical, purposeful,

meaningful and rationale approach to the plight of the litigant, so as to secure the ends of Justice. If a Condone Delay Petition is condoned by the Court concerned, the maximum, that would happen is, an opportunity is being provided to a party to take part in the main stream of Legal Proceedings. However, if the said Petition is dismissed at the earliest stage, then, there is a possibility to the effect that even a meritorious case may be thrown out without the 'Cause' of the concerned litigant being decided on merits. It cannot be forgotten that no litigant prefers a Revision Petition, or Appeal Petition, or any other Petition/Application before the concerned Court with a deliberate/intentional delay. Indeed, if he/she does so, then, it is at their own risk.

8. In the upshot of detailed discussion, and in view of the fact that the Petitioner/Appellant/De facto Complainant has come out with a reason that due to personal inconvenience of his Counsel, he was not able to appear before the Trial Court, and because of his non-appearance, the said Complaint came to be dismissed for default on 10.07.2015, etc., eventhough, the said reasons assigned at Para No.4 of the affidavit in

CrI.M.P.No.10928 of 2016 are not quite convincing to the satisfaction of this Court, yet, this Court is of the considered view that a 'Court of Law' has to adopt a practical, pragmatic, purposeful approach in dealing with the matters of litigant overriding technicalities or hyper-technicalities and also avoiding pedantic approach. Viewed in that perspective, this Court, by taking a lenient and liberal view and also keeping in mind, the primordial fact that the substantial Justice has to be delivered to the parties concerned, at this stage, condones the delay of 378 days in preferring the present Criminal Appeal, in Sr.No.43245 of 2016, of course, with a rider that the Petitioner/Appellant/De facto Complainant shall pay a sum of Rs.3,500/- (Rupees Three Thousand and Five Hundred only) to the Learned Counsel for the Respondent directly. The said amount will have to be paid on or before 14.12.2016, failing which, it is made clear that the Petition shall stand dismissed automatically, without any further reference to this Court.

22.11.2016

sd

Index : Yes/No

Internet : Yes/No

M.Venugopal, J.,

sd

Crl.M.P.No.10928 of 2016
in
Crl.A.Sr.No.43245 of 2016

22.11.2016

<http://www.judis.nic.in>